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Steven L. Oberholtzer, Esq.  
Brinks Hofer Gilson & Lione  
P.O. Box 10395  
Chicago, IL 60610

In re Application of LATARNIK et al  
U.S. Application No.: 09/936,638  
Int. Application No.: PCT/EP00/02347  
Int. Filing Date: 16 March 2000  
Priority Date: 17 March 1999  
Attorney Docket No.: 10543-032  
For: METHOD FOR DETERMINING  
PARAMETERS

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DECISION

This is in response to the "Renewed Request for Status Under 37 CFR 1.42 and Enclosures" filed 12 December 2002.

### **BACKGROUND**

On 16 March 2000, applicant filed international application PCT/EP00/02347, which claimed priority of an earlier Germany application filed 17 March 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 21 September 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 06 October 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 September 2001.

On 12 September 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 31 October 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 18 January 2002, applicant filed a request for status under 37 CFR 1.42, including a declaration executed by joint inventor Helmut Fennel and by the legal representatives of joint inventor Michael Latarnik, who according to the declaration is deceased.

On 20 February 2002, this Office mailed a decision dismissing the 18 January 2002 request for status on grounds that the declaration did not comply with 37 CFR 1.497(b)(2).

On 29 April 2002, applicant filed a renewed request for status.

On 14 May 2002, this Office mailed a decision dismissing the 29 April 2002 renewed request for status on grounds that the declaration did not comply with 37 CFR 1.497(a)(3).

On 12 December 2002, applicant filed the present renewed request for status along with a newly executed declaration.

### DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.


The declaration filed 12 December 2002 is in compliance with 37 CFR 1.497.

### CONCLUSION

For the reasons above, the papers filed 12 December 2002 are ACCEPTED under 37 CFR 1.42.

The application has an International Filing Date of 16 March 2000 and a date under 35 U.S.C. 371(c) of 12 December 2002.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

  
Bryan Tung  
PCT Legal Examiner  
PCT Legal Office

Telephone: 703-308-6614  
Facsimile: 703-308-6459